Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C.

MAN 3 1 1997
FEDERAL COMMUNICATIONS COMMISSION

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In the Matter of	OFFICE OF SECRETARY	•
)	-
Closed Captioning and Video Description)	
of Video Programming)	
) MM Docket No. 95-176	
Implementation of Section 305 of the)	
Telecommunications Act of 1996)	
)	
Video Programming Accessibility)	
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To: The Commission

REPLY COMMENTS OF HSN, INC.

HSN, Inc. ("HSNI"), by its attorneys, hereby submits these Reply

Comments in response to comments filed to the Commission's Notice of Proposed

Rule Making in the above-captioned proceeding. 1/

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I/ Closed Captioning and Video Description of Video Programming, MM Docket No. 95-176, FCC 97-4 (rel. Jan. 17, 1997) ("Notice"). This Notice was issued pursuant to the video programming accessibility provision of the Telecommunications Act of 1996 ("Telecom Act"), Pub.L. 104-104, 110 Stat. 56 § 305 (1996), and was based in part on comments already filed in response to the Commission's Notice of Inquiry. See 11 FCC Rcd 4912 (1996). The Commission has announced that the comments filed in this proceeding are to be used to satisfy the inquiry mandated by the Telecom Act. Order, FCC 96-71 (rel. Feb. 27, 1996).

The comments present no reason for the Commission to subject HSNI's programming to burdensome and, in the case of HSNI, unnecessary captioning requirements. HSNI's programming uniformly satisfies even the standard by which advocacy groups for the hearing impaired would determine whether programming should be exempted. According to this standard, the Commission should not demand captioning of any program whose audio is not necessary to understand the program's content. 2/ HSNI's programming, with its heavy emphasis on visual text and, of course, visual images, certainly does not need any additional textual information to convey its message to its hearing impaired viewers.

The still photos of HSNI's programming that were submitted with its initial comments demonstrate that the essence of the scenes captured by these photos is comprehensible through the photos alone, even without the additional textual information that frequently appears, through a text crawl or other form, during the programming. Further proof of the current accessibility of HSNI's programming may be found in the noteworthy success of HSNI's TDD service, which is designed for hearing-impaired viewers, and which, since its inception several years ago, has consistently received hundreds of product orders each year.

Even commenters that support captioning of electronic retail programming never attempt to suggest that HSNI's programming is less accessible

^{2/} See, e.g., Association of Late-Deafened Adults, Inc. ("ALDA") Comments at 5 (requesting the Commission caption broadcasts whose audio "is necessary to understand the program"); League for the Hard of Hearing ("League") Comments at 7 (contending that a primarily textual program "should be exempt" if the audio background is not "necessary for the understanding of the information provided").

than other programming that obviously merits captioning exemptions, such as promotional advertising and sports broadcasts. There is no doubt that HSNI shows more textual information more regularly than either of these classes of programming. The commenters' failure to distinguish electronic retail from these types of programming, or from other textual-based programming, demonstrates that the imposition of captioning requirements on HSNI would be arbitrary. 3/

The commenters who would compel HSNI to spend substantial resources to caption its programming also ignore another major drawback of captioning electronic retail programming: confusion. As noted throughout the comments, real-time captioning is not accurate. It is in HSNI's interest -- as well as the interest of each of HSNI's viewers -- to have HSNI's programming be easily understood and free of confusing errors. 4/ HSNI similarly fears that captions would conceal the essential textual or other visual information displayed. 5/ These concerns, along with the huge costs of captioning 24-hour live, unscripted

^{3/} HSN's programming can be fully understood based on the visual and textual information already provided on-screen. Thus, there is no need for captioning. Some commenters seem to advocate captioning whether or not it will serve any purpose. Kaleidscope Television Network, for example, advances the non sequitur that, though many text-based channels may be exempt from captioning requirements, electronic retail programmers should nonetheless be required to caption if the programmer annually receives a certain amount of revenue. See Kaleidoscope Television Comments at 8, 10. Far more harm than good will result from requiring costly and unnecessary captioning, as that captioning cannot help but clutter and confuse HSNI's currently clear visual presentation.

^{4/} See QVC, Inc. Comments at 22.

programming, surely outweigh any minimal benefits of captioning this heavily visual programming.

HSNI has worked hard to be accessible to hearing impaired viewers.

However, HSNI opposes misguided attempts to impose potentially confusing and costly captioning on programming that it is already plainly accessible to the hearing impaired. For the foregoing reasons, HSNI urges the Commission to exempt electronic retail programming from mandatory captioning requirements.

Respectfully submitted,

HSN, INC.

By W

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March 31, 1997

<u>5</u>/ See, e.g., Direct Marketing Association, Inc. Comments at 5-6; The Weather Channel Comments at 15-16.